HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No.20635 OF 2007

DATE: 29.10.2007

Between:
Sake Sridevi

..... PETITIONER

AND

The Chief Secretary,
Govt. of Andhra Pradesh,
Secretariat, Hyderabad. & 2 others.

.....RESPONDENTS

HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No. 20635 OF 2007

ORDER: (Per Hon'ble Sri Justice A.Gopal Reddy)

Sake Sridevi, Wife of Sake Nagendra @ Nagaiah filed this Writ Petition challenging the detention order passed by the Collector & District Magistrate, Anantapur, second respondent herein vide

Proceedings in Rc.No.91/2007/B, dated 8.7.2007 detaining her husband in exercise of powers conferred on him under Section 3 (1) and (2) read with Sections 2 (a) and (b) of A.P. Prevention of Dangerous Activities of Bootlegger, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short 'the Act') for the alleged involvement of the detenu in Crime Nos.77 of 2006-07, 400 of 2006-07, 230 of 2006-07 and 304 of 2006-07 registered by the Prohibition and Excise Station, Anantapur.

The second respondent filed a counter affidavit *inter alia* mentioning the crimes registered against the alleged detenu. The sum and substance of the crimes registered against the alleged detenu discloses that the detenu along with his associates was transporting huge quantity of arrack sachets for distributing the same. The chemical examiner, who examined the samples, found that the samples are 'diluted arrack containing sediments unfit for human consumption and injurious to health'. In the said crimes, charge sheets were also laid before the Court concerned. Pursuant to the detention order, the detenu was taken into custody on 9.7.2007 and lodged at Central Prison, Cherlapally. Further, the Government in G.O.Rt.No.4095, General Administration (Law & Order.II) Department, dated 16.7.2007 approved the order of detention for a period of two months. Later, the order of detention was placed before the Advisory Board and the Advisory Board in its meeting held on 17.8.2007, after hearing the detenu and the Investigating Officer and after perusing the connected records, opined that there is sufficient cause for the detention of the detenu. On the above recommendations made by the Advisory Board, Government through G.O.Rt.No.4882, General Administration (Law & Order.II) Department, dated 22.8.2007

confirmed the order of detention for a period of 12 months.

Learned counsel for the petitioner as well as the learned Government Pleader for Home fairly conceded that this Court in similar matter in W.P.No.14583 of 2007, after following the dicta laid down by the Apex Court in **Makhan Singh Tarsikka v. State of Punjab** (AIR 1952 SC 27), held that if the detention authority specifies the period of detention, the whole detention order vitiates and the consequential approval by the Government as well as the Advisory Board and the final order passed by the Government under sub-section (1) of Section 12 r/w Section 13 of the Act.

In the case on hand, the second respondent, who is delegated with the powers under Section 3(1) and (2) read with Section 2(a) and (b) of the Act specified the period of detention. Therefore, following the decision of the Apex Court referred to supra, the detention order cannot be sustainable under law and the same is liable to be set aside.

The Writ Petition is accordingly allowed and the detention order passed by the Collector and District Magistrate, Anantapur vide Proceedings in Rc.No.91/2007/B, dated 8.7.2007 is set aside. The alleged detenu viz. Sake Nagendra @ Nagaiah shall be set at liberty forthwith, if not required in any other case. No costs.

A. GOPAL REDDY, J.

29th OCTOBER, 2007

P. SWAROOP REDDY, J.

Note: Office to dispatch a copy of
the order to all the concerned forthwith.
(B/o)
Tsr.